

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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Bevan & Associates,	:	
LPA, et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	Case No. 2:16-CV-746
	:	Algenon Marbley
Richard Michael	:	Magistrate Judge
DeWine, et al.,	:	Kimberly A. Jolson
	:	
Defendants.	:	
	:	

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CONFIDENTIAL
DEPOSITION OF THOMAS W. BEVAN, ESQ.

- - - - -

Taken at Kegler, Brown, Hill + Ritter Co. LPA
65 East State Street, Ste. 1800
Columbus, OH 43215
August 29, 2017, 9:16 a.m.

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

Kegler, Brown, Hill + Ritter Co. LPA
65 East State Street, Ste. 1800
Columbus, OH 43215
By Ralph E. Breitfeller, Esq.

ON BEHALF OF DEFENDANT:

Attorney General's Office,
Workers' Compensation
150 East Gay Street, 22nd Fl.
Columbus, OH 43215
By Cheryl J. Nester, Esq.

ON BEHALF OF BWC:

Attorney General's Office,
Workers' Compensation
150 East Gay Street, 22nd Fl.
Columbus, OH 43215
By Colleen C. Erdman, Esq.

ALSO PRESENT:

Patrick M. Walsh, Esq.

Tuesday Morning Session

August 29, 2017, 9:16 a.m.

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S T I P U L A T I O N S

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It is stipulated by counsel in attendance that the deposition of Thomas W. Bevan, a witness herein, called by the Defendant for cross-examination, may be taken at this time by the notary pursuant to notice and subsequent agreement of counsel that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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I N D E X

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(No exhibits were marked.)

1 MR. BREITFELLER: If we could put the
2 stipulation on the record that the parties agree
3 that at least at this point the transcripts of
4 these depositions will be treated as confidential
5 under the stipulated protective order.

6 And the parties further agree that upon
7 review of the transcript if there is some or all
8 of the transcript that can be designated not
9 confidential, then we will do that.

10 MS. NESTER: Thank you.

11 THOMAS W. BEVAN, ESQ.
12 being first duly sworn, testifies and says as
13 follows:

14 MS. NESTER: Before we start,
15 Mr. Breitfeller, can we have the stipulation that
16 this is by agreement?

17 MR. BREITFELLER: Yes.

18 MS. NESTER: Waive any formal notice?

19 MR. BREITFELLER: Yes.

20 MS. NESTER: And can we stipulate to
21 the qualifications of the stenographer?

22 MR. BREITFELLER: Yes.

23 MS. NESTER: Thank you. Just so we get
24 that taken care of, all the details.

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CROSS-EXAMINATION

BY MS. NESTER:

Q. Mr. Bevan, I'm Cheryl Nester. I'm with the Attorney General's Office. I represent the Bureau of Workers' Compensation, the Administrator of the Bureau of Workers' Compensation in her official capacity and the Industrial Commissioners in their official capacities, just so you know where we stand there.

Patsy Thomas is unable to be with us this morning due to a family issue, but I will do my best here.

I don't feel like I have to tell you how to take a deposition as I usually would. I'm pretty sure you know this.

But just so we're clear, if there is anything, you know, you don't understand, ask me to repeat it, rephrase it.

If you need to take a break, let me know and we will.

A. Okay.

Q. Hopefully this will be relatively painless. But I do want to, just so we're making

1 a good record, get a little bit of your background
2 if I may.

3 A. Okay.

4 Q. So just officially could you state your
5 name for the record?

6 A. Thomas W. Bevan.

7 Q. And how are you employed?

8 A. I'm employed by the law firm of Bevan &
9 Associates LPA, Inc.

10 Q. Okay. Are you a partner, I'm
11 presuming?

12 A. A shareholder.

13 Q. A shareholder.

14 Okay. All right. And how long has
15 that firm been in existence?

16 A. I believe since 1994 or '95.

17 Q. Okay. I assume you were a founding
18 shareholder?

19 A. Yes.

20 Q. I always want to say partner, sorry.

21 Okay. How long have you been
22 practicing law?

23 A. Twenty six years.

24 Q. And how long have you been practicing

1 Workers' Comp law?

2 A. Twenty six years.

3 Q. So from the beginning?

4 A. Yes.

5 Q. Okay. How did you begin?

6 A. Begin practicing law?

7 Q. Uh-huh.

8 A. After graduating from law school and
9 passing the bar, I joined an office sharing
10 arrangement that was called Bevan & Economus.

11 Q. Okay. Did that morph into Bevan &
12 Associates, or is that a separate entity?

13 A. Well, it's a separate entity.

14 Q. Legally it is, but I mean in -- in
15 actual practice, was it sort of the same group of
16 people?

17 A. Three of us formed Bevan & Associates
18 and began practicing under Bevan & Associates.
19 And eventually the office sharing arrangement went
20 away and everybody in the office became an
21 employee of Bevan & Associates. So various
22 attorneys moved away, moved out, and new attorneys
23 were hired. And they were all hired by Bevan &
24 Associates.

1 Q. Okay. As a shareholder, what does your
2 position entail?

3 A. I manage people, I litigate cases, I
4 handle cases.

5 Q. Are you more or less the manager of the
6 entire firm?

7 A. I would say that Pat and I manage the
8 entire firm together.

9 Q. Together?

10 A. Pat Walsh and I manage the entire firm
11 together.

12 Q. Okay. I'm just trying to --

13 A. Yeah.

14 Q. With respect to Bevan & Associates
15 specifically at this point in time, what type of
16 cases does Bevan & Associates handle? What type
17 of legal cases?

18 A. We handle Workers' Compensation claims,
19 asbestos claims, personal injury claims. That's
20 probably 99.9 percent. We'll do an occasional
21 will or an occasional estate. We did do Social
22 Security Disability which we do not do any more.

23 Q. Oh, okay.

24 A. That's really it.

1 Q. If you've said this already, I'm sorry.
2 Did you say you do medical malpractice?

3 A. Occasional medical malpractice. We'll
4 handle in-house an occasional malpractice case.
5 More often than not, we refer them out, but we do
6 handle some.

7 Q. Okay. I was just looking at your
8 masthead in your website and I didn't know how
9 that shook out.

10 A. Uh-huh.

11 Q. What would you say the percentage of
12 cases, not income but cases is of Workers'
13 Compensation cases for your firm? Would you say
14 50 percent, 25 percent? Ball park it for me.

15 A. This would be a very rough estimate. I
16 would say that of our clients, I would say over
17 half of them, maybe as much as two-thirds of them
18 are Workers' Compensation clients.

19 Q. Okay.

20 A. That's the largest number of individual
21 clients I believe would be Workers' Compensation.

22 Q. Okay. Thank you.

23 What portions of -- well, that's --
24 phrasing this is going to be difficult. When

1 you're handling a Workers' Compensation case, how
2 many of the -- or what percentage would you say
3 are administrative as opposed to .512 appeals?

4 A. Oh, 99 percent are administrative.

5 Q. Okay. Do you handle any mandamus cases
6 in Workers' Comp?

7 A. We have.

8 Q. But very few or not very many?

9 A. Oh, yeah, not very many. A handful.

10 Q. There just aren't very many --

11 A. No.

12 Q. -- across the board?

13 A. Yeah.

14 Q. Okay. Do you refer out any of the .512
15 appeals to other firms or other attorneys?

16 A. No. We handle those in-house.

17 Q. So if your client's Workers'
18 Compensation case required a .512 appeal, you'll
19 handle those yourself?

20 A. Yes.

21 Q. Do you have different attorneys doing
22 different portions, like some people are just .512
23 appeals, some people are administrative?

24 A. Well, we have three attorneys who's

1 primary responsibility is Workers' Compensation,
2 and one of those three I believe does most of the
3 .512 appeals.

4 Q. Okay.

5 A. The other two may do an occasional .512
6 appeal.

7 Q. Okay. How many attorneys are working
8 for Bevan & Associates right now, if you count
9 yourself and Mr. Walsh?

10 MR. WALSH: I'm sorry?

11 MS. NESTER: If you count yourself and
12 Mr. Walsh.

13 A. Nine attorneys are employed by Bevan &
14 Associates.

15 Q. Okay. And are you all at the same
16 address?

17 A. Yes.

18 Q. Okay. So you just have the one office?

19 A. Well, we have a satellite office in
20 Akron.

21 Q. Okay.

22 A. But nobody -- it's just an office.
23 Nobody staffs it. We use it occasionally --

24 Q. More use for deposition?

1 A. -- to meet with a client or --

2 Q. Meet with clients?

3 A. Yes.

4 Q. Okay. Do you have any attorneys who
5 just work from home as opposed to coming into the
6 office?

7 A. No.

8 Q. Okay. And you don't subcontract out
9 your Workers' Compensation work to any of your
10 other attorneys?

11 A. You know, we'll refer out a federal
12 workers' compensation claim.

13 Q. Uh-huh.

14 A. We do do those.

15 Q. Yeah. Okay.

16 A. But --

17 Q. All right. That was all background
18 stuff, so I'm done with that now you'll be happy
19 to know.

20 I want to get to some of the heart of
21 what we're in court on here. So I'd like to talk
22 to you about kind of how you guys have handled
23 your advertisements in three stages. We're going
24 to talk about three stages: One is before 2007,

1 before the law changed and made Workers' Comp
2 claim information confidential, so prior to 2007.
3 And then we're going to talk about the period from
4 2007 to 2016 when the law changed but prior to
5 your information as to some subpoenas. And then
6 we'll talk about 2016 to the present, okay?

7 A. Okay.

8 Q. So let's start with the first pre-
9 confidential era. So prior to 2007, how did
10 Bevan & Associates advertise for new Workers'
11 Compensation clients? What kind of advertisements
12 did you do?

13 A. We advertised at some point in
14 phonebooks. We advertised to existing clients.
15 We -- of course we took calls of people that would
16 either refer us cases or a friend of theirs was
17 represented by us and would refer their friend to
18 us. We worked with a lot of unions, and the
19 unions in some instances the unions did not handle
20 Workers' Compensation claims themselves, and so we
21 would go to the union hall once a week and anybody
22 that wanted to meet with an attorney to discuss a
23 Workers' Comp matter would come in and meet with
24 us. There was other attorneys that handled

1 workers' compensation claims, but if the claim got
2 too difficult for them to handle, they would
3 suggest that the worker talk to us and those
4 workers would hire us.

5 And then we did from 2004 through that
6 period of 2007, we obtained information from the
7 Bureau of Workers' Compensation which included
8 injured worker's names, addresses, claim number,
9 date of birth -- I'm sorry, date of injury,
10 allowed condition, whether the person had an
11 attorney or not, whether they received benefits or
12 -- or those kind of things.

13 Q. Okay.

14 A. And so we did direct mail
15 advertisements to those injured workers during
16 that time frame.

17 Q. Okay.

18 A. I think that's most of what we did to
19 market our services.

20 Q. And I know that it's hard to do that.
21 Some things that occurred to me, just let me ask
22 you a couple -- and I don't know I'm just
23 suggesting this. Did you ever do any billboards?

24 A. I don't think we did billboards.

1 Q. Okay.

2 A. No. I don't recall ever doing
3 billboards.

4 Q. Okay. Newspaper ads or some general
5 circulation publication?

6 A. I believe maybe we did some newspaper
7 ads.

8 Q. Okay. You mentioned unions. Did you
9 put any ads in, like, a union trade news
10 publication, that sort of thing?

11 A. I'm not sure.

12 Q. Okay.

13 MR. BREITFELLER: And, Cheryl, just so
14 I'm clear on your questions, when you're asking
15 about billboards, newspapers, union publications,
16 you're talking now about the period up to 2007?

17 MS. NESTER: Yes.

18 MR. BREITFELLER: Okay.

19 MS. NESTER: I am.

20 BY MS. NESTER:

21 Q. Did you do any radio or TV advertising
22 prior to 2007?

23 A. I don't think so.

24 Q. Okay. And I'm never clear -- I'm very

1 non-technological myself, so I'm never clear what
2 happens when. But did you during that period do
3 any online social media that you might have paid
4 for as opposed to your own pages?

5 A. I don't -- I don't know.

6 Q. Okay.

7 A. I'm not sure when our website started,
8 so I don't know.

9 Q. Okay. Well, like I said, technology is
10 not my thing.

11 Okay. You mentioned the union halls,
12 just very quickly to follow up on that one. The
13 unions would offer representation to their
14 membership for Workers' Comp. But if it became
15 something more complex, they would call you guys
16 in and offer you guys as possible representation;
17 is that correct?

18 A. Some unions.

19 Q. Some?

20 A. Not all.

21 Q. Well, the unions that you were working
22 with --

23 A. Some of the unions didn't handle
24 Workers' Compensation at all.

1 Q. At all. Okay.

2 A. And so if one of their workers had an
3 injury, you know, they knew that we had an
4 attorney in the union hall on a certain day at a
5 certain time and they could come down and speak
6 with an attorney.

7 Q. Got it. Okay. Thank you.

8 You also talked about obtaining
9 information through the public records requests
10 from the Bureau of Workers' Compensation. Did you
11 then use a mailing service for those -- was that
12 mailed advertising?

13 A. Yes.

14 Q. Okay. Prior to 2007, do you know the
15 names of some of those mailing services?

16 A. I believe we used Miller's Presort.

17 Q. The whole time?

18 A. That's the only one that I recall at
19 this time.

20 Q. Okay. So how did the information get
21 to them? Did you just send the lists that the
22 Bureau gave you to Miller's Presort? How did they
23 know who to mail to?

24 A. I believe we sent that information to

1 them. But I was not involved in that, so I am not
2 certain how we did it, whether we dropped off a
3 disk, whether we dropped off a -- you know,
4 whether we e-mailed them stuff. I don't know for
5 sure, but --

6 Q. Okay.

7 A. -- we provided them information. But I
8 wasn't involved in that process, so I don't really
9 know.

10 Q. More clerical?

11 A. Well, it just wasn't the part of the
12 firm that I was involved in, so --

13 Q. I take it that means it didn't rise to
14 your level?

15 A. No. Maybe I don't rise to that level I
16 think is the better term.

17 Q. That, I understand.

18 Beyond the Bureau of Workers'
19 Compensation at that time, this is pre2007 still,
20 was there any other source from which you obtained
21 addresses of individuals to provide to Miller's
22 Presort?

23 A. Well, we would have been doing
24 advertisements to potential asbestos clients --

1 Q. Uh-huh.

2 A. -- during that time frame, and I
3 believe we used Miller's Presort for that as well.
4 And that data would have been obtained from either
5 Social Security or Ohio -- I don't know what
6 department, but it would be death data from the
7 State of Ohio.

8 Q. Okay. Did you ever make any request
9 for information from the Industrial Commission of
10 Ohio?

11 A. During that time frame?

12 Q. Prior to 2007. Yes. I'm sorry.

13 A. I don't recall.

14 Q. Okay.

15 A. I don't believe so, but I don't recall
16 for sure.

17 Q. You just made me make sure I ask that
18 question the next one.

19 A. Yeah.

20 Q. Okay. And when you obtained
21 information from the Bureau of Workers'
22 Compensation of those names, was there a fee
23 charged for that?

24 A. I believe so.

1 Q. Something minimal?

2 A. Very small fee, yes.

3 Q. Okay. And again we're still talking
4 prior to 2007. Do you recall how often you would
5 be requesting this information, was it quarterly,
6 monthly, do you remember?

7 A. I don't recall.

8 Q. Okay. And do you recall any other
9 sources other than the Bureau that you used to
10 pursue a mail advertising or solicitation program
11 to obtain Workers' Compensation clients, not
12 asbestos but Workers' Compensation clients?

13 A. Well, in --

14 Q. Well, separate?

15 A. Asbestos sometimes involved Workers'
16 Compensation.

17 Q. True. That is true.

18 A. And so during that time frame, I don't
19 -- I don't recall any others.

20 Q. Okay. We've talked about a number of
21 advertising formats. Can you think of any others
22 that you might have used prior to 2007?

23 A. I don't recall at this time.

24 Q. Okay. All right. We're going to

1 switch time periods then. Let's go 2007 to 2016.
2 We're going to kind of go through the same thing
3 we just did. So between those two time periods,
4 what were the types of advertising you used to get
5 new Workers' Compensation clients?

6 A. I think it would include phonebooks,
7 during this time certainly Internet, again, you
8 know, contacting existing clients, the same
9 union-type work, the same thing I talked about as
10 far as the death data, the Social Security data.
11 I think that probably also included maybe voter
12 registration information. And then of course we
13 did mail advertisements to people that we knew had
14 asbestos claims and then we did mail
15 advertisements -- general mail advertisements to
16 addresses where we hoped that there was somebody
17 that lived at that address that had filed a
18 Workers' Compensation claim and -- and I think you
19 understand there's a difference between the two,
20 so --

21 Q. We'll get to that.

22 A. Uh-huh.

23 Q. Okay. Again during this period 2007 to
24 2016, did you do any billboard advertisements then

1 that you recall?

2 A. I don't recall any.

3 Q. So I mean are -- would you basically
4 say you've never done a billboard?

5 A. I don't think we have. And I just
6 don't recall. And so I'm -- I would say probably
7 not, but I'm not positive that we've never done
8 billboard advertising.

9 Q. Okay. Again ads in newspapers?

10 A. I don't recall doing any newspaper ads
11 during that time frame.

12 Q. Okay. Yellow Pages?

13 A. I'm pretty sure that we had phonebook
14 ads during that time.

15 Q. Oh, you did say that.

16 Radio or television ads?

17 A. Well, we did television ads for
18 asbestos claims --

19 Q. Okay.

20 A. -- which, you know, could involve
21 Workers' Compensation on some of them. We
22 definitely did TV ads during that time.

23 Q. Okay. Social media?

24 A. What we do on the Internet, I'm not

1 sure. Something called YP we've done. I don't
2 really know what that is, so --

3 Q. Okay.

4 A. And of course we have a website and we,
5 you know, offer our services on our website.

6 Q. Okay. And again you were talking about
7 general mail advertising. Who was your mailing
8 service at this point?

9 A. It would -- we definitely used Miller's
10 Presort, and I don't recall using anybody else
11 during that time.

12 Q. Okay. All right. During this time
13 period since this is 2007 to 2016, from where did
14 you obtain the addresses for Workers' Compensation
15 advertising to send to Miller's Presort?

16 A. Well, we had all the data that we had
17 collected up until 2007 --

18 Q. Uh-huh.

19 A. -- which included the specific data on
20 injured workers.

21 Q. Correct.

22 A. And so we continued to use that to
23 advertise.

24 Q. So you would year after year send it to

1 the same people probably?

2 A. Yes. Yes.

3 Q. Okay.

4 A. And then from a company called Capital
5 Publishing, we obtained -- and I believe that was
6 just addresses, just a street number, a city,
7 state and zip code. I don't recall that there was
8 any other information on that. Although, I
9 thought maybe whether the person had a lawyer or
10 not may have been in there, but I -- I'm frankly
11 not positive on that.

12 Q. Where did Capital Publishing obtain
13 their data, do you know?

14 A. I assume that they obtained it from the
15 BWC, but I don't -- I'm sure that's where they
16 obtained it. I don't know where else we could
17 have.

18 Q. Were they purporting to be a
19 journalistic service?

20 A. I believe they were a journalistic --
21 that's what they told me.

22 Q. Okay. You didn't check their
23 credentials?

24 A. I don't know if I -- how I checked them

1 out.

2 Q. Okay.

3 A. I don't know if I --

4 Q. But your belief was that they were
5 journalists?

6 A. My belief is that they were a
7 journalistic group and that's why we were able --
8 entitled to get the information.

9 Q. Okay. Do you also recall a company by
10 the name of Info Partners Corporation out of New
11 Jersey?

12 A. That name, I don't recall.

13 Q. No. Okay.

14 Is it possible that you worked with
15 some other companies other than Capital Publishing
16 that were journalistic in nature or that gave you
17 addresses?

18 A. Well, there was -- there was -- Jack
19 Duncan, Jack Henry.

20 Q. Okay. Jack Duncan?

21 A. Yeah. But the name that you mentioned,
22 that name doesn't --

23 Q. Doesn't ring a bell?

24 A. Doesn't ring a bell with me at this

1 time.

2 Q. Okay. All right. Since you brought up
3 Jack Duncan, we'll go there now. What was Jack
4 Duncan?

5 A. That was a company set up by a
6 journalist Regina Mace. And I'm not sure if she
7 had somebody else involved. I -- I thought maybe,
8 but I don't know -- I don't recall the name. But
9 that was set up by her.

10 Q. Okay. How did you come to know about
11 either Jack Duncan or Regina Mace?

12 A. Well, Regina Mace is somebody that I
13 knew because she had been a -- she was a reporter,
14 of course, but she had been a client of the firm
15 years ago on a claim, I think a -- some type of an
16 injury claim --

17 Q. Okay.

18 A. -- many years ago.

19 Q. Okay. What was your knowledge of her
20 journalistic background?

21 A. I know she reported for the Lorain
22 Journal for -- I don't know if she reported for
23 the Akron Beacon Journal for record publishing. I
24 don't know who else she, you know --

1 Q. Okay.

2 A. But I've seen her articles.

3 Q. Do you know why she set up the company
4 as Jack Duncan?

5 A. I don't know.

6 Q. As opposed to just being Regina Mace?

7 A. I don't know.

8 Q. Okay. All right. And so you would
9 also have obtained addresses from Regina Mace/Jack
10 Duncan?

11 A. Yeah. I think it was the same as from
12 Capital Publishing, it was just a street address,
13 city, state.

14 Q. Same type of information that Capital
15 Publishing provided you?

16 A. As far as I recall, yes.

17 Q. Okay. Do you know how often you would
18 have received information from -- I'm going to
19 call Regina Mace and Jack Duncan as the same
20 entity, so I'll just call her Regina Mace, even if
21 we're talking Jack Duncan, if that's alright with
22 you.

23 A. That's fine with me.

24 Q. Do you know how often you would have

1 received information from Regina Mace?

2 A. No.

3 Q. Okay. Did you ask her to obtain
4 address information for you?

5 A. I don't -- you know --

6 Q. For purposes of Bevan & Associates?

7 A. I don't recall. I didn't really have,
8 you know, any -- I wasn't really involved in that
9 -- in the process when she would bring stuff in or
10 when -- if we asked or if she offered when she had
11 something. I really don't know how that worked.

12 Q. Okay. Who would know that?

13 A. What's that?

14 Well, I think Pat would probably know
15 more about that --

16 Q. Okay.

17 A. -- because he would handle the data
18 part of it.

19 Q. Okay. All right. And for both Capital
20 Publishing and Regina Mace, I assume you had to
21 pay a fee for the information you obtained?

22 A. Yes.

23 Q. Do you know what the fees were for
24 each?

1 A. I really don't recall.

2 Q. Okay. In the period 2007 through 2016,
3 how long was your relationship with Capital
4 Publishing? Did it continue through that entire
5 period?

6 A. No.

7 Q. How long did it continue, if you know?

8 A. I don't recall.

9 Q. Just early in the period or --

10 A. Oh, it was definitely early in the
11 period.

12 Q. Okay.

13 A. And I don't know if it was a year, two
14 years, three years. I don't recall.

15 Q. Something kind of short then?

16 A. Yes.

17 Q. Okay. When did you begin a
18 relationship for purposes of obtaining BWC claim
19 information with Regina Mace?

20 A. I don't recall for sure.

21 MR. BREITFELLER: Let me just --

22 MS. NESTER: Would you like me to
23 rephrase that?

24 MR. BREITFELLER: No. You know, we've

1 gone a little bit into this. And at this point I
2 just want to -- well, let's go off the record if
3 we can for a second.

4 MS. NESTER: Sure.

5 (A short recess is taken.)

6 MS. NESTER: All right. Back on the
7 record, please.

8 BY MS. NESTER:

9 Q. All right. Can you answer that
10 question?

11 A. I don't recall for sure. I would say
12 -- I would estimate eight years ago.

13 Q. Okay.

14 A. But I don't recall for sure.

15 Q. And did it continue through 2016 then
16 at least until you --

17 A. I don't recall when we -- I'm not
18 certain when we last got information or any
19 addresses from Regina Mace or Jack Duncan. I
20 think it's been probably, you know, three years
21 since we last did an advertisement based on
22 anything, addresses or anything.

23 Q. Okay. Do you know if you had -- I'm
24 probably going to have to ask Mr. Walsh this one

1 too, but we'll ask you anyway too.

2 Do you know if you had any written
3 agreements with Capital Publishing for their
4 services?

5 A. Oh, I don't recall.

6 Q. Okay. Do you know if you had any with
7 Regina Mace or Jack Duncan for their services?

8 A. I don't recall that either.

9 Q. Okay. As far as you can recall then
10 Capital Publishing and Regina Mace/Jack Duncan
11 would have been the two entities you used for that
12 type of information for -- with respect to running
13 a mail advertising program to obtain Workers'
14 Compensation clients?

15 A. Well, plus what we got from the BWC.

16 Q. So that would be pre2007 though, right?

17 A. And we still had that information that
18 we continued --

19 Q. Correct. But the old information
20 from --

21 A. Yes.

22 Q. Okay. Thank you. I appreciate the
23 clarification.

24 A. And again plus the death data, the

1 Social Security, the -- this other data that I
2 talked about as well.

3 Q. Okay. We're a little off subject I
4 suppose. But how does one use death data? Are
5 you just looking to do death claims at that rate,
6 is that what --

7 A. It would certainly be a death claim.

8 Q. Yeah. So that is for seeing if --

9 A. Uh-huh.

10 Q. Okay. I've never done this. I don't
11 know. I work for the State.

12 MR. BREITFELLER: Have you ever been
13 the executor of an estate?

14 MS. NESTER: Only my parents, yes.

15 MR. BREITFELLER: Yeah. Well --

16 MS. NESTER: There you go.

17 Q. Okay. Other than the Bureau and the
18 two journalistic type entities we've talked about,
19 can you think of any other sources you've used to
20 obtain addresses to pursue a mail advertising
21 solicitation program to obtain Workers'
22 Compensation clients?

23 A. Not that I recall.

24 Q. Okay. In your responses to our request

1 for production, there was a May 31st, 2007 letter
2 from Capital Publishing Corporation which
3 indicated that they were providing -- they
4 provided you a list of Ohio counties in which they
5 had chiropractic clients who subscribed to their
6 Workers' Compensation publications. Does that
7 ring any bells for you? What was that about?

8 A. It rings a bell that I -- you know, I
9 -- I don't think I personally reviewed all the
10 documents that we produced, so I'd have to -- I
11 could take a look at that. It rings a bell that
12 Capital Publishing -- that there was chiropractors
13 subscribing to something from Capital Publishing
14 as well.

15 Q. Would they have any ability to obtain
16 patient names from the chiropractors who might be
17 looking for Workers' Compensation coverage? Is
18 that the type of thing that Capital Publishing was
19 offering to you guys?

20 A. Wait. I'm not sure I understand what
21 your question was.

22 Q. Well, he was saying it listed 15
23 counties, Ohio counties in which there were
24 chiropractors. How was that of import to you? I

1 mean --

2 A. I don't think it would be important to
3 me at all. I presume he was saying that he was,
4 you know, providing the addresses to chiropractors
5 as well, but I --

6 Q. Okay.

7 A. -- don't know. I'd have to take a look
8 at the document, but that's all I could assume.
9 It wouldn't be of any interest to me.

10 Q. Okay. We'll switch time periods again.
11 We'll just go from 2016 to the present now. A
12 short time period.

13 A. Uh-huh.

14 Q. So in this time period how have you
15 been advertising for workers -- specifically for
16 Workers' Compensation clients?

17 A. Specific to Workers' Compensation
18 clients, we really haven't done anything. I think
19 our website is still up.

20 Q. Okay.

21 A. We offer our services through our
22 website. You know, we still advertise for
23 asbestos clients, but that's really since '16 I
24 think all we've done. We stopped pretty much our

1 Workers' Compensation advertising.

2 Q. Okay. Do you still use Miller's
3 Presort in this period?

4 A. I'm assuming we've -- in that period
5 I'm fairly certain we've used Miller's Presort.

6 Q. Would you still --

7 A. For as -- I'm sorry. For asbestos.

8 Q. Okay.

9 A. We used Miller's Presort for just
10 general mailings to our clients. If we have a
11 reason to do a bulk mailing to clients, we use
12 Miller's Presort.

13 Q. Okay. Would you still be sending out
14 advertisement for Workers' Compensation purposes
15 using pre2007 information?

16 A. No. We stopped --

17 Q. Stopped that?

18 A. -- in whenever that was, beginning of
19 2016.

20 Q. Okay. Do you still do any work with
21 the unions?

22 A. Not -- very little --

23 Q. Okay.

24 A. -- if any. Most of them have shut down

1 and so, yeah, very little.

2 Q. Okay. All right. So you have not used
3 Capital Publishing or Regina Mace/Jack Duncan in
4 this time period?

5 A. No. I mean, we haven't used anything
6 from -- even from Regina Mace for probably three
7 years I think. Pat might know better, but it's
8 been a long time. It was long before 2016.

9 Q. Okay. Well, then let me backtrack us
10 then for a minute.

11 A. Yeah.

12 Q. We'll go back to the middle period here
13 where we're talking about 2007 to 2016.

14 A. Uh-huh.

15 Q. Okay. So if you had prior to 2016
16 stopped using Regina Mace's or Jack Duncan's
17 services for obtaining addresses for Workers'
18 Compensation potential clients, was there any
19 other source for those addresses at that point
20 then?

21 A. We weren't getting addresses from any
22 other source. I mean, whether there is another
23 source out there, I don't know.

24 Q. No. No. Were you using another one

1 was the question.

2 A. No.

3 Q. Okay. So you were really not -- am I
4 correct that you really were not doing mailed
5 advertising for purposes of obtaining Workers'
6 Compensation clients sometime before 2016?

7 A. The last time we had done it -- I'm not
8 sure if it was '15, 2015 or if it was 2014. We
9 intended to do it --

10 Q. Okay.

11 A. -- and would have done it but for this
12 threat of this investigation from the BWC, we
13 ceased doing it.

14 Q. All right. My understanding -- well,
15 never mind my understanding.

16 At what point did you learn about the
17 invest -- the BWC investigation?

18 A. I don't recall exactly, but I believe
19 it was early 2016.

20 Q. Okay. And is it at that point that you
21 ceased or was it prior to that?

22 A. Prior to that was when the -- was the
23 last time we had done it. We had intended to do
24 it more but we ceased, you know, doing it.

1 Q. As soon as you knew about the
2 investigation?

3 A. Because of this threat.

4 Q. Okay. But that was the reason you
5 stopped?

6 A. Yes.

7 Q. Okay. I'm just making sure I hadn't
8 missed something. Thank you.

9 A. Yeah.

10 Q. Okay. I want to just ask you a couple
11 brief questions. We're almost finished.

12 With respect to the declaration that
13 you put into motion for summary judgment --

14 A. Okay.

15 Q. -- at No. 14 of that declaration you
16 had made reference to -- or you had made the
17 statement that within the Workers' Compensation
18 system employers are almost always represented by
19 lawyers. And the second sentence was Ohio Bureau
20 of Workers' Compensation is always represented by
21 lawyers. What part of the system are you speaking
22 to? Are you talking about the administrative
23 process at that point?

24 A. Well, it could be administrative or

1 court, yes.

2 Q. Right.

3 A. Either one.

4 Q. In you're experience, the Bureau of
5 Workers' Compensation always has a lawyer present
6 at administrative hearings?

7 A. Not always present, but there's a
8 lawyer that represents the Bureau of Workers'
9 Compensation on every claim. They have a legal
10 department. And so many of our claims that we
11 handle have a lawyer present, yes, a BWC lawyer
12 present.

13 Q. At the hearing?

14 A. If the employer is not being
15 represented by a lawyer.

16 Q. Okay.

17 A. But there's always a lawyer. Now, the
18 lawyer may determine that he or she doesn't need
19 to attend that hearing, and that's his or her
20 choice. But the BWC always has a lawyer
21 representing it.

22 Q. But not necessarily at the hearing?

23 A. Okay. Again, not necessarily at the
24 hearing. I guess it would be up to that lawyer to

1 determine whether or not he or she needed to
2 attend that hearing.

3 Q. I was just trying --

4 A. Yes.

5 Q. You must have seen a lot more
6 administrative hearings with BWC attorneys than I
7 have. I was just trying to make sure what we're
8 talking about, if you were just talking about the
9 appeals to court or if you were talking about the
10 administrative process as well.

11 A. Yeah. And that's -- you know, has
12 definitely evolved over the years. When I first
13 started practicing, the Bureau never sent a lawyer
14 to the hearings. Now it is extremely common,
15 certainly on the -- on the hearings where there's
16 an issue that's important to the injured worker.

17 Q. So you would not agree with the
18 statement that said BWC attorneys seldom make an
19 appearance at the administrative level?

20 A. I would disagree with that.

21 Q. Okay.

22 A. Certainly if you are talking over the
23 last 10 years. If you told me that, you know,
24 1991 when I started practicing to 1995, I would

1 agree with that statement. But I would not agree
2 with that statement today.

3 Q. Okay. I just wanted to verify.

4 All right. Can we go off the record
5 for a moment, please.

6 (A short recess is taken.)

7 Q. Back on the record for a moment.

8 Mr. Bevan, thank you very much. We're
9 going to conclude at that point. I don't think I
10 have any further questions for you.

11 A. Thank you.

12 Q. I appreciate your time and cooperation
13 this morning.

14 A. Thank you.

15 MR. BREITFELLER: And we'll read.

16 (Signature not waived.)

17 - - - - -

18 Thereupon, the foregoing proceedings
19 concluded at 10:10 a.m.

20 - - - - -

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22

23

24

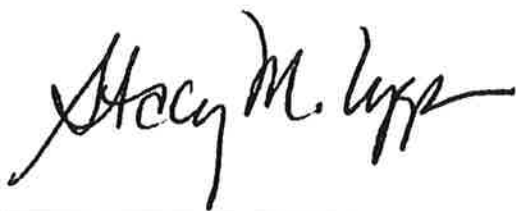
1 State of Ohio : C E R T I F I C A T E
2 County of Franklin: SS

3 I, Stacy M. Upp, a Notary Public in and for the
4 State of Ohio, certify that Thomas W. Bevan was by
5 me duly sworn to testify to the whole truth in the
6 cause aforesaid; testimony then given was reduced
7 to stenotype in the presence of said witness,
8 afterwards transcribed by me; the foregoing is a
9 true record of the testimony so given; and this
10 deposition was taken at the time and place
11 specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of
13 Civil Procedure, the witness and/or the parties
14 have not waived review of the deposition
15 transcript.

16 I certify I am not a relative, employee,
17 attorney or counsel of any of the parties hereto,
18 and further I am not a relative or employee of any
19 attorney or counsel employed by the parties hereto,
20 or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal of office at Columbus, Ohio, on
23 August 29, 2017.

24 

Stacy M. Upp, Notary Public - State of Ohio
My commission expires August 6, 2021.

1 Witness Errata and Signature Sheet
 2 Correction or Change Reason Code
 3 1-Misspelling 2-Word Omitted 3-Wrong Word
 4-Clarification 5-Other (Please explain)

	Page/Line	Correction or Change	Reason Code
4	P 13, L 14	WE DO NOT DO THOSE.	
5	P 14, L 24	There were other unions...	
6	P 27, L 23	Capitalize "Record Publishing"	
7			
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14			
15			
16			
17			

18 I, Thomas W. Bevan, have read the entire
 19 transcript of my deposition taken in this matter,
 20 or the same has been read to me. I request that
 the changes noted on my errata sheet(s) be entered
 into the record for the reasons indicated.

21 Date 8/3, 11 Signature [Signature]

22 The witness has failed to sign the deposition
 23 within the time allowed.

24 Date _____ Signature _____